



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

TJR

Docket No: 3409-00

9 November 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 12 July 1962 at the age of 18. Your record reflects that you served for a year and six months without incident but on 23 December 1963 you were convicted by civil authorities of operating an automobile without a valid license, reckless driving, and hit and run. You were sentenced to a \$200 fine.

Your record further reflects that on 14 February 1964 you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded extra duty for 14 days. On 22 August 1964 you were convicted by civil authorities of drunk and disorderly conduct, possession of obscene literature, and underage drinking. You were sentenced to a \$310 fine and confinement for 120 days. On 16 November 1964 you were convicted by special court-martial (SPCM) of a 65 day period of unauthorized absence (UA) and were sentenced to confinement at hard labor for two months, a \$164 forfeiture of pay, and reduction to paygrade E-2.

On 13 January 1965 you submitted a written request for retention in the Navy. Subsequently, this request was denied and on 20 January 1965 you were notified of pending administrative separation action by reason of misconduct due to civil conviction. At this time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. Your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to civil conviction. On 3 February 1965 the discharge authority directed your commanding officer to issue you an other than honorable discharge by reason of misconduct. On 11 February 1965 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that because your discharge was too harsh and the punishment you received was too severe, your discharge should be upgraded to honorable and your reason for separation should be changed to convenience of the government. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge or a change in your narrative reason for separation given the serious nature of your frequent misconduct in both the military and civilian communities. The Board noted that your misconduct resulted in two civil convictions, a NJP, and a special court-martial conviction. Further, the Board noted that you there is no evidence in your record and you submitted none, to support your contentions. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director